Supreme Court, U. S.
FILED
MAR 3 1978
MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1976

No. 73, Original

STATE OF CALIFORNIA,

Plaintiff,

v.

STATE OF NEVADA,

Defendant.

DEFENDANT'S OBJECTION TO MOTION FOR LEAVE TO FILE BRIEF AMICUS CURIAE

Robert F. List
Attorney General of Nevada

James H. Thompson
Chief Deputy Attorney General

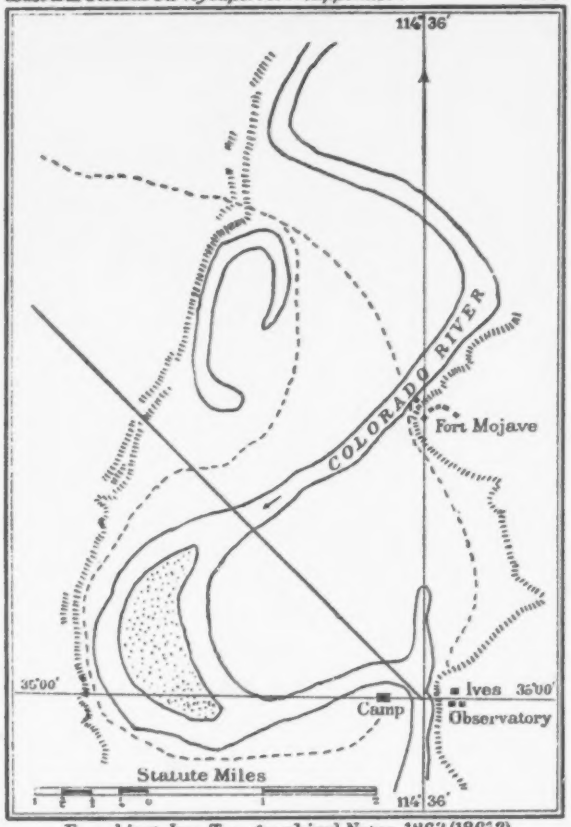
Michael W. Dyer
Deputy Attorney General

Harry W. Swainston
Deputy Attorney General

Capitol Complex
Carson City, Nevada 89710

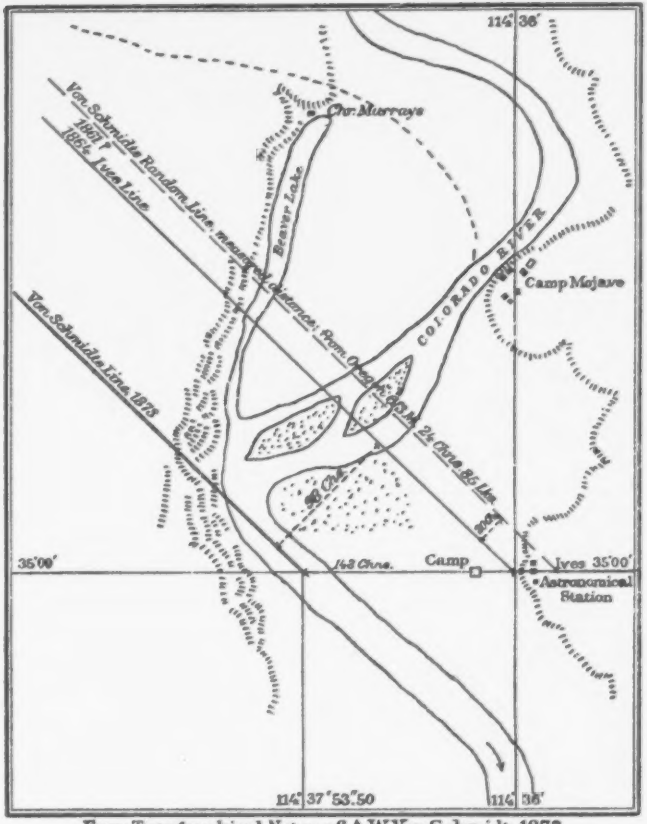
Counsel for Defendant,
State of Nevada

No.4



From Lieut. Ives Topographical Notes, 1863 (1861?)

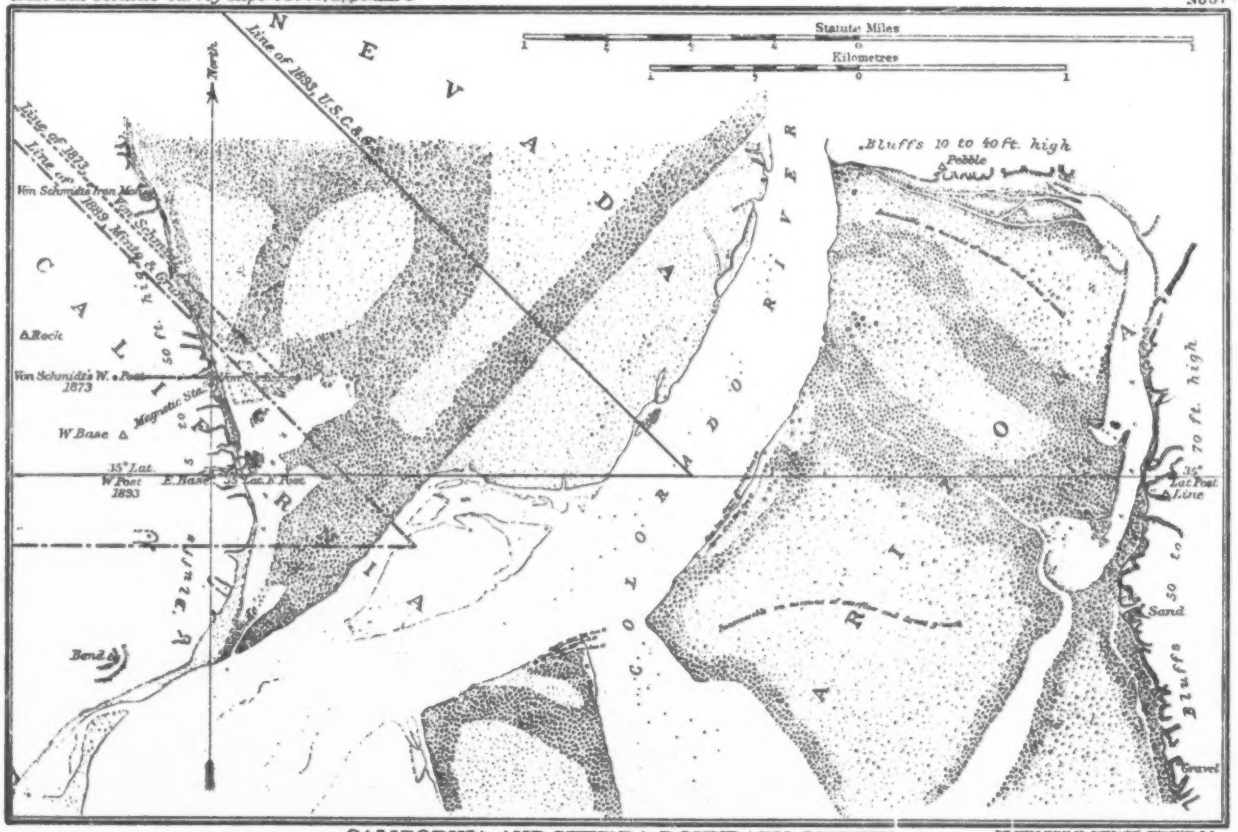
No.5



From Topographical Notes of A.W Von Schmidt, 1873

THE HORNE-ANTON CO. PHOTO-LITHO. WASHINGTON, D. C.

EXHIBIT A



CALIFORNIA AND NEVADA BOUNDARY SURVEY

THE ROBERT PETERS CO., PHOTO-LITHO., WASHINGTON, D. C.

EXHIBIT B

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1976

No. 73, Original

STATE OF CALIFORNIA,

Plaintiff,

vs.

STATE OF NEVADA,

Defendant.

DEFENDANT'S OBJECTION TO MOTION FOR LEAVE TO FILE BRIEF AMICUS CURIAE

Defendant hereby files objection to the Motion by California State Assemblyman Mike Cullen for leave to file a brief amicus curiae. Defendant's objection is based on the following reasons:

I.

The ultimate issue joined by the complaint and answer in this proceeding is which of two boundary surveys (the 1863 Houghton-Ives line and the

1872 Von Schmidt line) constitutes the legal boundary between California and Nevada.

Movant seeks to inject an issue wholly extraneous to the issue framed by the pleadings, that is, the Court should order a resurvey of the 120th meridian because of "space age" advances in surveying techniques.[1] The pleadings show that both the 1863 and the 1872 surveys were surveys of the 120th meridian.

Movant clearly fails to satisfy the requirement of Rule 42.3 that the applicant demonstrate facts or questions of law relevant "to the disposition of the case." Indeed, a resurvey or the need for a resurvey is irrelevant to the issue of which of the prior surveys of the 120th meridian is the legal boundary.

II.

Movant's attempt to inject an entirely new issue of law into this proceeding runs afoul of the well established practice of the courts that an amicus

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[1] Parenthetically, if movant's view be correct, then all meridional boundaries between states of the Union are wrongly located and in need of resurveying by "space-age technology."

curiae must accept the case before the Court with the issues joined by the parties.[2]

For the reasons stated, the Defendant requests the Court to withhold consent to the application for leave to file Brief Amicus Curiae.

Respectfully submitted,

ROBERT LIST
Attorney General of the
State of Nevada
JAMES H. THOMPSON
Chief Deputy Attorney
General
MICHAEL W. DYER
Deputy Attorney General
HARRY W. SWAINSTON
Deputy Attorney General

By _____
James H. Thompson
Chief Deputy Attorney
General

2/ The numerous decisions applying this rule are collected at Volume 3A, C.J.S., Amicus Curiae, §7, Notes 90, 91.

CERTIFICATE OF SERVICE

I, JAMES H. THOMPSON, Chief Deputy Attorney General of Nevada, hereby certify that on the 28 day of February, 1978, I mailed, by first class mail, postage prepaid, three copies to each of the following:

Edmund G. Brown, Jr.,
Governor of California
State Capitol Building
Sacramento, California 95814

Evelle J. Younger
Attorney General of California
555 Capitol Mall, Suite 550
Sacramento, California 95814

Ackerman, Ling, & Russell
Attorneys at Law
444 West Ocean Boulevard, Suite 1000
Long Beach, California 90802

James H. Thompson
Chief Deputy Attorney General